

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SUSANA GUEVARA,

Defendant.

8:11CR135

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”), the Defendant’s objections thereto and supporting brief (Filing Nos. 153, 154), and the Defendant’s motion for variance and supporting brief (Filing Nos. 156, 157). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the base offense level in ¶ 27 and the lack of a minimal role adjustment in ¶ 30. She argues that under U.S.S.G. §§ 2D1.1(a)(5)(B)(ii) and 3B1.2(a) she is entitled to a base offense level of 33 and an adjusted offense level of 29. She also argues that she is entitled to the benefit of the safety valve under 18 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2(a)(5). The objections will be heard at sentencing, and the Defendant has the burden by a preponderance of the evidence.

The Defendant’s motion for variance will also be heard at sentencing.

IT IS ORDERED:

1. The Defendant’s objections to the PSR (Filing No. 153) will be heard at sentencing;
2. If any party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if

an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;

4. The Defendant's motion for variance (Filing No. 156) will be heard at sentencing; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

Dated this 2nd day of November, 2012.

BY THE COURT:

s/ Laurie Smith Camp
Chief United States District Judge